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April 30, 2013

The Honorable Kiyo A. Matsumoto
United States District Court
Eastern District of New York
225 Cadman Plaza East, Room N406
Brooklyn, NY 11201

Re: Boda v. Detective Phelan, New York City, B.M. (Index No. 11-cv-28)

Dear Judge Matsumoto:

On behalf of Defendant B.M., I write as required by Your Honor's rules and Judge Gold's April 11, 2013 Order to request a pre-motion conference to discuss Defendant B.M.'s intent to file a Motion for Summary Judgment ("Motion") pursuant to Federal Rule of Civil Procedure 56. Defendant B.M.'s Motion will seek summary judgment as to all of Plaintiff's claims against her.

Specifically, Defendant B.M.'s Motion will seek summary judgment on the following grounds:

- Plaintiff's defamation claim against Defendant B.M. fails because, *inter alia*, (1) it is barred by the applicable statute of limitations; (2) Defendant B.M. did not make the allegedly defamatory statement; and, (3) even assuming, *arguendo*, that Defendant B.M. did make the allegedly defamatory statement, Defendant B.M. acted without malice (*i.e.*, with the good faith belief in the truth of her alleged statements to the police and district attorney).
- Plaintiff's malicious prosecution claim against Defendant B.M. fails because, *inter alia*, (1) the criminal prosecution against Plaintiff was not initiated by Defendant B.M.; (2) there was probable cause for Plaintiff's arrest, detention, and prosecution; and (3) Defendant B.M. acted without malice (*i.e.*, with a good faith belief in the truth of her statements to the police and district attorney).

Additionally, Defendant B.M. reserves the right to seek costs, attorneys' fees, and sanctions pursuant to Rule 11.

In light of Plaintiff's present incarceration, the basis for which is more fully explained in the pre-motion conference letter filed by counsel for Defendants Det. John Phelan and the City of New York (ECF No. 84), the parties have been unable to confer and agree on a briefing schedule for Defendants' summary judgment motions. However, Defendant B.M. proposes the following briefing schedule:

- May 24, 2013: Defendants serve motions for summary judgment;
- June 14, 2013: Plaintiff serves response to Defendants' motions for summary judgment;
- June 28, 2013: Defendants serve replies to Plaintiff's response, and all parties file fully-briefed motion with the Court.

Respectfully submitted,

/s/ Michael T. Leigh

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cc: Judge Steven M. Gold (via ECF)
Matthew Modaffer, Esq. (via ECF)
Peter Boda, *Pro se Plaintiff* (via Federal Express)